

**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

December 28, 2010

Certified Letter
7008 1140 0002 3861 1639

The Honorable Joyce Overton
City of Clearlake
14050 Olympic Drive
Clearlake, California 95422

RE: City of Clearlake's Local Implementation Plan (LIP) Time Extension Request

Dear Honorable Mayor Overton,

The Department of Resources Recycling and Recovery (CalRecycle) has received your request to extend the City of Clearlake's (City's) deadline for full implementation of its Local Implementation Plan (LIP) from December 31, 2010.

Please find attached the Deputy Director's approval of the City's request. The attached approval also addresses the one-year monitoring period that follows the deadline for full LIP implementation.

Should you have any questions about the attached decision, please contact Kathleen Marsh at (916) 341-6475 or at kathy.marsh@calrecycle.ca.gov.

Respectfully,

A handwritten signature in dark ink, appearing to read "Lorraine Van Kekerix", is written over a faint, larger signature.

Lorraine Van Kekerix, Branch Chief,
Waste Evaluation and Enforcement Branch
Compliance and Enforcement Division


cc: Allan McClain, Interim City Administrator
Raffy Kouyoumdjian, Jurisdiction and Product Compliance Unit
Compliance Order File #IWMA BR09-001

Attachments: Deputy Director's Approval



REQUEST FOR ACTION

To: Ted Rauh, Deputy Director
Compliance and Enforcement Division

From: 
Lorraine Van Kekerix, Branch Manager
Waste Evaluation and Enforcement Branch

Request Date: December 10, 2010

Decision Subject: Consideration of a Time Extension Request by the City of Clearlake for Compliance Order IWMA BR 09-001

Action By: December 14, 2010

Summary of Request:

This is a request that the Deputy Director take action on a proposed Time Extension request to Compliance Order IWMA BR 09-001 (Compliance Order) for the City of Clearlake (City). Staff's findings and recommendations are provided relative to the proposed action (attachment 1).

On May 19, 2010, the City submitted an official written Time Extension request to extend the deadline of the Compliance Order from February 28, 2010 to December 31, 2010. However, this Time Extension request did not have the required elements. Based on staff's analysis, an initial Time Extension was approved that provided the City with the necessary time to fully develop an Amended Local Implementation Plan (LIP) and an implementation schedule. The initial Time Extension was approved on July 15, 2010.

On October 29, 2010, the City submitted their Time Extension via email (hard copy received on November 1, 2010). The Time Extension request and the attached Amended LIP (attachments 2 and 3) were developed and submitted after several meetings with the Department of Resources Recycling and Recovery (CalRecycle) staff in Local Assistance and Market Development (LAMD) Branch and Jurisdiction and Product Compliance Unit (JPCU).

On November 4, 2010, the City Administrator resigned his position. Subsequently, JPCU staff spoke with the interim City Administrator. The interim City Administrator informed staff that the City was taking steps to:

- Begin to implement elements of the amended LIP by procuring recycling guides to disseminate to both the commercial and residential sectors.
- Preparing an agenda item for January 2011 to approve a new franchise agreement. This agreement will allow the franchisee to better assist the City with implementation of the Compliance Order tasks.

These two recent events show a concerted effort by the City of Clearlake to fully implement the amended LIP and the requirements of the Compliance Order.

Paragraph 3.9 of Compliance Order IWMA BR09-001 allows the City to request an extension of time to perform any mandated activity or submit any document, provided that the City submits a written extension request prior to the compliance date in the Compliance Order, explains the delay, and

provides justification for the time extension. Additionally, paragraph 3.10 of the Compliance Order requires a finding of good cause by CalRecycle before the City's extension request can be granted.

Recommendation:

Based on staff's analysis of the available information and the City's Time Extension request, JPCU finds that the City has provided good cause supporting the Time Extension request. This Time Extension modifies the diversion programs to reflect the City's current resource levels and specifies the program tasks that will be implemented to increase diversion and meet the requirements of the Compliance Order. A one-year monitoring period will follow the Amended LIP implementation date. Staff recommends that the Deputy Director concur with the approval of the Time Extension request. If the Deputy Director denies the Time Extension, the next step for the City may be a public hearing by CalRecycle to consider the issuance of penalties.

Deputy Director Action:

On the basis of the information, analysis and findings in the staff report attached to this Request for Action, the City of Clearlake's commitment to fully implement the terms and conditions of Compliance Order IWMA BR 09-001 and staff recommendation and finding of good cause, I hereby grant the City of Clearlake's request for a Time Extension with a new date for full implementation of all of the Compliance Order conditions by July 31, 2011. Following full implementation, a one year monitoring period will continue through July 31, 2012.

Dated:



Ted Rauh, Deputy Director
Compliance Evaluation and Enforcement Division
Department of Resources Recycling and Recovery

Attachments: Staff Report
City of Clearlake's October 29, 2010 Time Extension Letter
City of Clearlake Amended LIP

Staff Report and Analysis of the City of Clearlake's Request for Extension for Their Local Implementation Plan

November 27, 2010

On February 24, 2009, Compliance Order IWMA BR 09-001 (Compliance Order) was issued to the City of Clearlake (City). This Compliance Order required that the City fully implement its Local Implementation Plan (LIP) by February 28, 2010.

On May 19, 2010, the City submitted an official written Time Extension request to extend the deadline of the Compliance Order from February 28, 2010 to December 31, 2010. However, this Time Extension request did not have the required elements. Based on staff's analysis, an initial Time Extension was approved that provided the City with the necessary time to fully develop an Amended LIP and an implementation schedule. The initial Time Extension was approved on July 15, 2010.

On October 29, 2010, the City submitted their Time Extension via email (hard copy received on November 1, 2010). The Time Extension request and the attached Amended LIP (attachments 2 and 3) were developed and submitted after several meetings with CalRecycle staff in Local Assistance and Market Development (LAMD) Branch and Jurisdiction and Product Compliance Unit (JPCU).

On November 4, 2010, the City Administrator resigned his position. Subsequently, JPCU staff spoke with the interim City Administrator. The interim City Administrator informed staff that the City was taking steps to:

- Begin to implement elements of the amended LIP by procuring recycling guides to disseminate to both the commercial and residential sectors.
- Preparing an agenda item for January 2011 to approve a new franchise agreement. This agreement will allow the franchisee to better assist the City with implementation of the Compliance Order tasks.

These two recent events show a concerted effort by the City of Clearlake to fully implement the amended LIP and the requirements of the Compliance Order.

From the outset of the Compliance Order, the City has said that they are facing massive economic and financial difficulties. The Amended LIP was developed in response to the City's current financial situation and commits the City to implementing diversion programs that are reasonable and feasible.

The JPC Unit has prepared this independent staff report and analysis of the City's request and the City's LIP implementation efforts to date. This report includes reviews of data submitted from the City and field visits to the City. It must be noted that JPCU has not conducted any recent program verification visits due to the City's own reported minimal progress made in developing and implementing waste diversion programs.

The following is a complete summary of the City's original LIP implementation efforts to date and the modifications proposed to be implemented during the Time Extension.

Phase I

Residential Program:

The original LIP included a mandatory residential diversion program to be implemented by June 25, 2009. Since the City has not re-negotiated its franchise hauler contract, this program has not been fully implemented. Currently the franchise hauler is providing residential waste collection and limited recycling services.

Modified Residential Program: The revised LIP proposes to refocus the current LIP's mandatory residential program to one that better meets the needs of the community. This program will be developed in cooperation with the County of Lake to enhance the self-haul recycling drop-off center at the landfill. This is expected to increase residential recycling.

Commercial Program:

The original LIP included a mandatory commercial diversion program to be implemented by May 15, 2009. Since the City has not re-negotiated its franchise hauler contract, this program has not been implemented. Currently the franchise hauler is providing commercial waste collection and limited recycling services.

Modified Commercial Program: The revised LIP proposes to develop and enhance their franchise haulers efforts to provide more waste audits and education to the businesses within the City. This will focus the education efforts on how to save money by recycling. This program will be further developed during the implementation of the identified tasks in the Amended LIP.

Construction and Demolition (C&D) Ordinance:

The original LIP included adoption of a C&D ordinance by June 1, 2009. The City has reported that a draft C&D ordinance has been prepared, but it has yet to be adopted by the City Council.

Modified C&D Program: The revised LIP proposes not to adopt a C&D ordinance. The decision is based on concerns that the ordinance, as written, would increase the staff costs. The City recognizes that they are required to meet state requirements. CalRecycle staff will work with the City to identify how the City can enhance C&D diversion.

Community Public Outreach and Education Programs:

The original LIP included developing educational materials for City residents and businesses by September 1, 2009. Currently the franchise hauler is providing some outreach and education on a limited basis. However, without the implementation of the above programs, the City has limited outreach opportunities.

Modified Community Public Outreach and Education Programs: The revised LIP proposes to coordinate with both the franchise hauler and LAMD to enhance outreach to both the residential and commercial sectors by developing and providing educational materials supporting the revised LIP as it is implemented. The City sees opportunities to distribute the materials through the Chamber of Commerce and local newsletters. Additionally, the City will work with the franchise hauler to post the information on the franchise hauler's web site. The City's website has been dormant due to budgetary issues.

Phase II

Schools Program:

The original LIP implements a schools program on an ongoing basis.

In 2003, the City Council required that the franchise hauler provide free waste collection service to the schools. As a result, there has been no effort by the school district to recycle. The City proposed to eliminate the free service to provide an incentive for the school district to recycle.

Modified Schools Program: The revised LIP maintains the efforts taken to date by the City by continuing to require the schools to pay for waste disposal. The City will also provide education and outreach, with the assistance of its franchise hauler. Finally, the City will be assessing diversion efforts at the schools and providing enhanced recycling opportunities as appropriate.

Phase III

Designation of Recycling Coordinator

The original LIP identified the City Administrator as the designated Recycling Coordinator.

Modified Designation of Recycling Coordinator: The City has notified CalRecycle that the Public Works Director has been designated as the Recycling Coordinator.

Purchasing Practices:

No changes are proposed to be implemented regarding the City's purchasing practices. The City has an ordinance in place for a purchasing system that entails buying recycled products when cost and quality of products are equal.

Illegal Disposal Cleanup and Recycling:

The City reports that it has a tremendous amount of illegal dumping due to the percentage of low income residents. The Public Works Department was cleaning up illegal dumps when funds were available, however the City's current economic constraints have significantly impacted this program to the point that no illegal disposal cleanups are being conducted. LAMD staff has been working with the City to provide grant availability information to the City.

On-Going

Quarterly and Annual Reporting:

JPCU reminds the City when Quarterly Reports are due. The City has not submitted the last four (4) Quarterly Reports. The City has indicated that due to the economic constraints and the subsequent development of the Amended LIP, the City did not have reportable program implementation progress that would necessitate submittal of Quarterly Reports.

Staff Recommendation

The City has had limited success in implementing its LIP programs due to the current economic climate within the City. The City's Time Extension request that includes a City approved Amended LIP and an implementation schedule, would provide the City with modified diversion program tasks to increase diversion and meet the requirements of the Compliance Order.

Based on staff's analysis of the available information and the City's Time Extension request, JPCU finds that the City has provided good cause supporting the Time Extension request. This Time Extension modifies the diversion programs to reflect the City's current resource levels and specifies the program tasks that will be implemented to increase diversion and meet the requirements of the Compliance Order. A one-year monitoring period will follow the Amended LIP implementation date. Staff recommends that the Deputy Director concur with the approval of the Time Extension request.

If the Deputy Director denies the Time Extension, the next step for the City may be a public hearing by CalRecycle to consider the issuance of penalties.

This analysis was conducted by Raffy Kouyoumdjian. If you have any questions regarding the analysis or staff's recommendations, please contact Trevor O'Shaughnessy at (916) 341-6203.